

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ANN MARGARET WALKER,

Plaintiff,

Case No. 10-13598

v.

HONORABLE AVERN COHN

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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ORDER ADOPTING REPORT AND RECOMMENDATION (Doc. 19)
AND
GRANTING DEFENDANT'S MOTIONS TO DISMISS (Docs. 10, 16)
AND
DISMISSING CASE

This is a social security case. On September 9, 2010, plaintiff Ann Margaret Walker filed this action seeking judicial review of an unfavorable decision regarding the timing of her disability benefits. The matter was referred to a magistrate judge for all pretrial proceedings. Defendant, the Commissioner of Social Security (Commissioner), filed a motion to dismiss on the grounds that plaintiff had not sought Appeals Council review to exhaust her administrative remedies and therefore jurisdiction was lacking. Doc. 10. After plaintiff filed an amended complaint, the Commissioner filed a second motion to dismiss on the same grounds. Doc. 16.

On September 15, 2011, the magistrate judge issued a report and recommendation (MJRR) recommending that the Commissioner's motions be granted. Plaintiff has not filed objections to the MJRR and the time for filing objections has

passed. A failure to file objections to the report and recommendation waives any further right to appeal. Smith v. Detroit Federation of Teachers Local 231, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the motions. Thomas v. Arn, 474 U.S. 140, 149 (1985). However, the Court has reviewed the MJRR and agrees with the magistrate judge. As explained in the MJRR, plaintiff is not excused from Appeals Council review and her failure to seek administrative review bars this action.

Accordingly, the MJRR is ADOPTED as the findings and conclusions of the Court. The Commissioner's motions to dismiss are GRANTED. This case is DISMISSED for the reasons stated in the MJRR.

SO ORDERED.

Dated: October 26, 2011

S/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, October 26, 2011, by electronic and/or ordinary mail.

S/Julie Owens
Case Manager, (313) 234-5160